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23 July 1974

Director of Communications

STAT [redacted]

Attached herewith are five copies of the prepared statement by the DCI on H.R. 15845, given on 22 July 1974. In accordance with instructions from the DCI to the ADD/M&S, please provide appropriate dissemination within your Office.

/s/ LJD

STAT

Att

Executive Officer to the DD/M&S

STAT [redacted] [redacted]

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EO-DD/M&S:[redacted]:kmg (23 Jul 74)
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Att: DCI Statement on H.R. 15845

NOTE: 3 cys sent to C/ISAS and C/CIA HS, and 1 cy to C/RCS. 1 cy circulated on DD/M&S Staff.

Chief, Management Staff/DDI

STAT [redacted]

Attached herewith are forty copies of the prepared statement by the DCI on H.R. 15845, given on 22 July 1974. In accordance with instructions from the DCI to the ADD/M&S, please provide appropriate dissemination within your Directorate.

STAT [redacted]

Att

STAT
Executive Officer to the DD/M&S

STAT [redacted] [redacted] 23 Jul 74

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PREPARED STATEMENT ON H. R. 15845
BY
WILLIAM E. COLBY, DIRECTOR OF CENTRAL INTELLIGENCE

22 July 1974

Mr. Chairman, I welcome the opportunity to testify today on H. R. 15845 introduced by you and Mr. Bray. The amendments proposed in this bill would be the first changes in the charter of the Central Intelligence Agency, found in the National Security Act of 1947. In conformity with our American constitutional structure, the existence of the Central Intelligence Agency stems from an Act of Congress. This is a unique contrast to the tradition and practice of most intelligence services, but it is a necessary reflection of our free society. The result, I believe, makes us a stronger nation, whose citizens live in a freedom envied by most of the world.

The amendments would add the word "foreign" before the word "intelligence" whenever it refers to the activities authorized to be undertaken by the Central Intelligence Agency. I fully support this change. While I believe the word "intelligence" alone in the original Act was generally understood to refer only to foreign intelligence, I concur that this limitation of the Agency's role to foreign intelligence should be made crystal clear to its own employees and to the public. I hope this amendment will reassure any of our fellow citizens as to the Agency's true and only purpose.

Section (3) of the bill reenforces the charge in the original Act that the Director of Central Intelligence shall be responsible for "protecting

intelligence sources and methods from unauthorized disclosure." The amendment states that pursuant to this responsibility, the Director shall develop appropriate plans, policies and regulations but such responsibility shall not be construed to authorize the Agency to engage in any police, subpoena, law enforcement or internal security activities, and that any information indicating a violation of the Director's plans, policies and regulations, should be reported to the Attorney General for appropriate action.

This amendment conforms to my own understanding of the meaning of the original statutory language. As I said in my confirmation hearing, I believe that the original Act gives the Director a charge but does not give him commensurate authority. Under existing law, the Director is responsible for developing such internal administrative controls as are possible and appropriate to protect against unauthorized disclosure, but if such a disclosure is identified, his only recourse beyond internal disciplinary action, including termination of an employee, would be to report the matter to appropriate authorities for examination of possible legal action. As you are aware, Mr. Chairman, the Government did take legal action with respect to one of our ex-employees who declined to abide by the agreement he made when he joined CIA to protect the confidential information to which he would be exposed.

Mr. Chairman, I fully agree with this clarification of the precise nature of the charge on the Director to protect intelligence sources and

methods against unauthorized disclosure. As you know, I am of the personal opinion that additional legislation is required on this subject to improve our ability to protect intelligence sources and methods against unauthorized disclosure. The contract theory on which the previously mentioned litigation is based is indeed a very slender reed upon which to rely in all cases. My views on this subject became known publicly as a result of that case and the specifics of my recommendations on this subject are still under active consideration within the Executive Branch, so that an appropriate Executive Branch recommendation can be made to the Congress.

The bill would also require that the Agency report to the Congress "in accordance with such procedures as the Congress may establish" on those "other functions and duties related to[foreign]intelligence affecting the national security as the National Security Council may from time to time direct." The National Security Act authorized the National Security Council to direct the Agency to conduct a number of foreign intelligence activities which by their nature must remain secret. The Act made clear, however, that these functions and duties could only stem from a specific direction by the National Security Council rather than being determined by the Agency itself. The amendments do not change this situation but add the requirement of reporting to Congress.

Mr. Chairman, at present the Agency reports to the Congress about its activities in a number of ways. On certain matters the Agency reports

publicly, such as in this hearing and in my own confirmation hearings. The Agency further identifies for public release a number of matters affecting it or resulting from its efforts. A recent example was the publication of testimony on the economies of the Soviet Union and China provided to the Joint Economic Committee and published on July 19th with only a few deletions which related to intelligence sources and methods.

The second area in which the Agency reports to Congress is in its assessments of foreign situations. The Agency briefs appropriate committees of the Congress in executive session, using the most sensitive material available, thus providing the Congress the fruits of the intelligence investment made by the United States. I believe this type of reporting is particularly important, as I hope to make our intelligence of maximum service to the nation as a whole, and this can only take place if it can assist those in the Congress who share in the American decision-making process under our Constitution. The Appropriations Committees, the Armed Services Committees, the Foreign Affairs and Foreign Relations Committees, the Joint Committee on Atomic Energy, and others have been the recipients of this kind of material. Again, to the extent possible, information provided and discussed in these executive sessions is later screened for publication. In many cases the sensitivity of the sources and methods involved does not permit such publication, but the classified transcript of the briefing can be made available to the members of Congress.

The third area in which the Agency reports to Congress concerns its operations. Pursuant to long-established procedures of the Congress, reports on these matters, including the most sensitive details, are provided only to the Intelligence Subcommittees of the Armed Services and Appropriations Committees of each House. Mr. Chairman, there are literally no secrets withheld from these Subcommittees. In fact, I believe I have more than a duty to respond to them; I must undertake the positive obligation to volunteer to these Subcommittees all matters of possible interest to the Congress. As you know, these reports cover our annual budget, the details of our activities, and problems which may have arisen in some regard or other.

The procedures established by the Congress for this reporting have worked well. Large numbers of highly sensitive matters have been revealed to these Subcommittees over the years, and their classification has been respected. I am also aware of the sense of responsibility of the members of the Congress as a whole with respect to matters which must remain highly classified because of their sensitivity. Thus, I am confident that congressional procedures in the future will be as effective as those of the past and I welcome the codification of this relationship in the proposed amendment which requires the Agency to report to the Congress.

Mr. Chairman, the bill also reenforces the proscription in the original Act against police, subpoena, law enforcement powers or internal security functions. I wish I could say that this clarification was not necessary but as you know, Mr. Chairman, I have frankly admitted that the Agency did make some mistakes in recent years in this area. Your own report of the investigations of this Subcommittee dealt with those incidents. The Congress has, in Public Law 93-83 of August 6, 1973, made clear that the CIA may not provide help to the Law Enforcement Assistance Administration in assisting local police and law enforcement agencies of the states and municipalities. The language of the bill would go further in this regard and prohibit the Agency from engaging directly or indirectly in the above type of activities within the United States either on its own or in cooperation or conjunction with any other department, agency, organization or individual. This would restrict our collaboration with the FBI to the field of foreign intelligence or counterintelligence. It may also limit the degree of assistance the Agency could provide to the Secret Service, under the Secret Service Act, which authorizes it to call upon the assistance of any other agency of the Government to assist it in its mission (Public Law 90-331). While this amendment might restrict certain of our activities of the past which were not in any way reprehensible, I believe that its enactment at this time would be an appropriate way of clarifying the purpose of the Agency as related only to foreign intelligence.

I do note that the bill contains a proviso in this area which I believe is both appropriate and essential to the proper functioning of the Agency. This makes it clear that nothing in the Act shall be construed to prohibit the Agency from conducting certain necessary and appropriate activities in the United States directly related to its foreign intelligence responsibilities. I welcome this proviso not only for its content but also for its clarification of the propriety of some of the long-standing activities of the Agency which are essential to its foreign intelligence mission. These include:

a. Recruiting, screening, training and investigating employees, applicants and others granted access to sensitive Agency information;

b. Contracting for supplies;

c. Interviewing U.S. citizens who voluntarily share with their Government their knowledge of foreign subjects;

d. Collecting foreign intelligence from foreigners in the United States;

e. Establishing and maintaining support structures essential to CIA's foreign intelligence operations; and

f. Processing, evaluating and disseminating foreign intelligence information to appropriate recipients within the United States.

These matters were publicly reported by me in my confirmation hearing last summer, and I believe that there is general understanding of their necessity and propriety. The proviso in the amendment, however, would make this explicit.

The bill also adds a new subsection to the Act to prohibit transactions between the Agency and former employees except for purely official matters. I fully subscribe to the purpose of this provision, to assure that former employees not take advantage of their prior associations to utilize the Agency's assistance or resources or to have an undue influence on the Agency's activities. This is particularly directed at the possible use of the Agency's assets for "nonofficial" assistance outside the Agency's charter. I would like to say that such a provision is not necessary, but again I must admit that errors have been made. While I do not believe there were any instances of major import, I accept the desirability of making the limitations on the Agency's unique authorities quite clear.

The normal legal proscriptions against improper influence on Federal employees apply, of course, to the Agency. In addition, a regulation has been developed within the Agency, which is brought to the attention of each employee each year, that any CIA employee who believes that he has received instructions which in any way appear inconsistent with the CIA legislative charter will inform the Director immediately. I might point out that

in those cases which presented questions concerning the Agency overstepping its bounds, the propriety and dedication to American traditions of our own employees caused them to object to possible Agency activities outside its charter. In my confirmation hearing I stated that I am quite prepared to leave my post if I should receive an order which appeared to be illegal and if my objections were not respected.

Thus, we in the Agency are fully in accord with the purpose of this amendment. At the same time, I confess concern over some possible interpretations of the language of this subsection. I assume that "purely official matters" would include our normal relationships with our retirees or others who left the Agency. I would assume it would also enable us to maintain normal official relationships with individuals who left the Agency to go on to other Governmental activities so long as the "official matters" fall within the scope of CIA's legitimate charter and there is no undue influence involved. I do wonder, however, whether certain activities might be included under this provision as official which neither the Congress nor the Agency would want to countenance, and on the other hand whether the phrase might interfere with a contact with an ex-employee volunteering important information to the Agency.

Since the Agency has certain unique authorities under the National Security Act and the CIA Act of 1949 and since much of its work does involve

highly classified activity, I would think it appropriate that the Congress add to the Agency's legislative charter some special recognition of the high degree of responsibility imposed on the Agency and its employees as a result of the grant of these unique authorities. This could require the Director to develop and promulgate a code of conduct for CIA employees at a higher standard than that expected of Federal employees generally. Thereby, the intelligence profession would become one of those with special standards such as the medical or legal professions. The Director's unique authority to terminate employees in his discretion when necessary or advisable in the interests of the United States, pursuant to the National Security Act of 1947, would provide a sanction for the application of such high standards. Regular congressional review would provide an assurance that such a code of conduct was adequate and that it was being promulgated, applied, and adhered to.

Mr. Chairman, it has been a pleasure to have had this opportunity to comment on H. R. 15845. With the few reservations I have noted above, I fully support the bill. Most of all, I fully support the purpose of the legislation in clarifying the mission of the Central Intelligence Agency only to conduct foreign intelligence activities. At the same time, I am pleased that the modifications proposed to the CIA charter would not adversely affect its authority or capability to carry out the challenging task of collecting, processing and disseminating foreign intelligence in the world today. I believe

these amendments would mark an important milestone in eliminating any apparent conflict between our ideal of an open American society and the minimum requirements of secrecy in the intelligence apparatus necessary to protect this free nation.